



***Substitute House Bill No. 5877***

***Public Act No. 08-102***

***AN ACT CONCERNING PROBATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 53a-29 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(a) The court may sentence a person to a period of probation upon conviction of any crime, other than a class A felony, if it is of the opinion that: (1) Present or extended institutional confinement of the defendant is not necessary for the protection of the public; (2) the defendant is in need of guidance, training or assistance which, in [his] the defendant's case, can be effectively administered through probation supervision; and (3) such disposition is not inconsistent with the ends of justice.

(b) The court may impose a sentence of conditional discharge for an offense, other than a class A felony, if it is of the opinion that: (1) Present or extended institutional confinement of the defendant is not necessary for the protection of the public; and (2) probation supervision is not appropriate.

(c) When the court imposes a sentence of conditional discharge, the defendant shall be released with respect to the conviction for which the

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sentence is imposed but shall be subject, during the period of such conditional discharge, to such conditions as the court may determine. The court shall impose the period of conditional discharge authorized by subsection (d) of this section and shall specify, in accordance with section 53a-30, the conditions to be complied with. When a person is sentenced to a period of probation the court shall impose the period authorized by subsection (d), (e) or (f) of this section and may impose any conditions authorized by section 53a-30. When a person is sentenced to a period of probation, [he] such person shall pay to the court a fee of two hundred dollars and shall be placed under the supervision of the Court Support Services Division.

(d) [The] Except as provided in subsection (f) of this section, the period of probation or conditional discharge, unless terminated sooner as provided in section 53a-32 or 53a-33, shall be as follows: (1) For a [felony, except as provided in subsection (e) of this section] class B felony, not more than five years; (2) for a class C or D felony or an unclassified felony, not more than three years; (3) for a class A misdemeanor, not more than [three] two years; [(3) for a class B misdemeanor, not more than two years;] (4) for a class B or C misdemeanor, not more than one year; and (5) for an unclassified misdemeanor, not more than one year if the authorized sentence of imprisonment is three months or less, or not more than two years if the authorized sentence of imprisonment is in excess of three months, or where the defendant is charged with failure to provide subsistence for dependents, a determinate or indeterminate period.

(e) Notwithstanding the provisions of subsection (d) of this section, the court may, in its discretion, on a case by case basis, sentence a person to a period of probation which period, unless terminated sooner as provided in section 53a-32 or 53a-33, shall be as follows: (1) For a class C or D felony or an unclassified felony, not more than five years; (2) for a class A misdemeanor, not more than three years; and (3)

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for a class B misdemeanor, not more than two years.

[(e)] (f) The period of probation, unless terminated sooner as provided in section 53a-32, shall be not less than ten years or more than thirty-five years for conviction of a violation of subdivision (2) of subsection (a) of section 53-21 of the 2008 supplement to the general statutes or section 53a-70, 53a-70a, 53a-70b, 53a-71 of the 2008 supplement to the general statutes, 53a-72a, 53a-72b, 53a-90a of the 2008 supplement to the general statutes, 53a-196b, 53a-196c of the 2008 supplement to the general statutes, 53a-196d of the 2008 supplement to the general statutes, 53a-196e of the 2008 supplement to the general statutes or 53a-196f of the 2008 supplement to the general statutes.

(g) Whenever the court sentences a person, on or after the effective date of this section, to a period of probation of more than two years for a class C or D felony or an unclassified felony or more than one year for a class A or B misdemeanor, the probation officer supervising such person shall submit a report to the sentencing court, the state's attorney and the attorney of record, if any, for such person, not later than sixty days prior to the date such person completes two years of such person's period of probation for such felony or one year of such person's period of probation for such misdemeanor setting forth such person's progress in addressing such person's assessed needs and complying with the conditions of such person's probation. The probation officer shall recommend, in accordance with guidelines developed by the Judicial Branch, whether such person's sentence of probation should be continued for the duration of the original period of probation or be terminated. Not later than sixty days after receipt of such report, the sentencing court shall continue the sentence of probation or terminate the sentence of probation. Notwithstanding the provisions of section 53a-32, the parties may agree to waive the requirement of a court hearing. The Court Support Services Division shall establish within its policy and procedures a requirement that any

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victim be notified whenever a person's sentence of probation may be terminated pursuant to this subsection. The sentencing court shall permit such victim to appear before the sentencing court for the purpose of making a statement for the record concerning whether such person's sentence of probation should be terminated. In lieu of such appearance, the victim may submit a written statement to the sentencing court and the sentencing court shall make such statement a part of the record. Prior to ordering that such person's sentence of probation be continued or terminated, the sentencing court shall consider the statement made or submitted by such victim.

Sec. 2. Subsection (a) of section 20-341 of the 2008 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(a) Any person who wilfully engages in or practices the work or occupation for which a license is required by this chapter without having first obtained an apprentice permit or a certificate and license for such work, or who wilfully employs or supplies for employment a person who does not have a certificate and license for such work, or who wilfully and falsely pretends to qualify to engage in or practice such work or occupation, or who wilfully engages in or practices any of the work or occupations for which a license is required by this chapter after the expiration of such person's license, shall be guilty of a class B misdemeanor, provided no criminal charges shall be instituted against such person pursuant to this subsection unless the work activity in question is reviewed by the Commissioner of Consumer Protection, or the commissioner's authorized agent, and the commissioner or such agent specifically determines, in writing, that such work activity requires a license and is not the subject of a bona fide dispute between persons engaged in any trade or craft, whether licensed or unlicensed. Notwithstanding the provisions of subsection (d) or (e) of section 53a-29, as amended by this act, and subsection (d)

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of section 54-56e of the 2008 supplement to the general statutes, if the court determines that such person cannot fully repay any victims of such person within the period of probation established in subsection (d) or (e) of section 53a-29, as amended by this act, or subsection (d) of section 54-56e of the 2008 supplement to the general statutes, the court may impose probation for a period of not more than five years. The penalty provided in this subsection shall be in addition to any other penalties and remedies available under this chapter or chapter 416.

Sec. 3. Subsection (a) of section 20-417e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(a) In addition to any other remedy provided for in sections 20-417a to 20-417j, inclusive, any person who violates any provision of subsection (d) of section 20-417d shall be guilty of a class A misdemeanor. Notwithstanding subsection (d) or (e) of section 53a-29, as amended by this act, or section 54-56e of the 2008 supplement to the general statutes, if the court determines that a new home construction contractor cannot fully repay any victim of the violations committed by such contractor within the period of probation established in subsection (d) or (e) of section 53a-29, as amended by this act, or section 54-56e of the 2008 supplement to the general statutes, the court may impose probation for a period of not more than five years.

Sec. 4. Subsection (c) of section 20-427 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(c) In addition to any other remedy provided for in this chapter, (1) any person who violates any provision of subsection (b) of this section, except subdivision (8), shall be guilty of a class B misdemeanor and (2) any person who violates the provisions of subdivision (8) of subsection (b) of this section shall be guilty of a class B misdemeanor if the home

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improvement that is offered or made has a total cash price of ten thousand dollars or less and shall be guilty of a class A misdemeanor if the home improvement that is offered or made has a total cash price of more than ten thousand dollars. Notwithstanding subsection (d) or (e) of section 53a-29, as amended by this act, or section 54-56e of the 2008 supplement to the general statutes, if the court determines that a contractor cannot fully repay his victims within the period of probation established in subsection (d) or (e) of section 53a-29, as amended by this act, or section 54-56e of the 2008 supplement to the general statutes, the court may impose probation for a period of not more than five years. A violation of any of the provisions of this chapter shall be deemed an unfair or deceptive trade practice under subsection (a) of section 42-110b.

Sec. 5. Subsection (b) of section 53a-31 of the general statutes, as amended by section 36 of public act 08-1 of the January special session, is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) Issuance of a warrant or notice to appear for violation pursuant to section 53a-32 shall interrupt the period of the sentence as of the date of such issuance until a final determination as to the violation has been made by the court. During the interrupted period, [unless otherwise ordered by the court, the defendant shall comply with any conditions imposed or with any conditions he or she was previously required to comply pursuant to section 53a-30] the court may impose any of the conditions of release set forth in section 54-64a. In the absence of a warrant or notice to appear for violation pursuant to section 53a-32, if the defendant has failed to comply with any of the conditions of probation or conditional discharge, such failure shall not relieve the Court Support Services Division from the responsibility of supervising the defendant.

Sec. 6. Section 53a-31 of the general statutes, as amended by section

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36 of public act 08-1 of the January special session and section 5 of this act, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(a) A period of probation or conditional discharge commences on the day it is imposed, except that, where it is preceded by a sentence of imprisonment with execution suspended after a period of imprisonment set by the court, it commences on the day the defendant is released from such imprisonment. Multiple periods, whether imposed at the same or different times, shall run concurrently.

(b) Issuance of a warrant or notice to appear for violation pursuant to section 53a-32, as amended by this act, shall interrupt the period of the sentence as of the date of such issuance until a final determination as to the violation has been made by the court. [During the interrupted period, the court may impose any of the conditions of release set forth in section 54-64a.] In the absence of a warrant or notice to appear for violation pursuant to section 53a-32, as amended by this act, if the defendant has failed to comply with any of the conditions of probation or conditional discharge, such failure shall not relieve the Court Support Services Division from the responsibility of supervising the defendant.

(c) Notwithstanding the issuance of a warrant or notice to appear for violation pursuant to section 53a-32, as amended by this act, the defendant shall continue to comply with the conditions with which the defendant was previously required to comply pursuant to section 53a-30. The Court Support Services Division shall make reasonable efforts to inform the defendant of the defendant's obligation to continue to comply with such conditions and to provide the defendant with a copy of such conditions.

[(c)] (d) In any case where a person who is under a sentence of probation or of conditional discharge is also under an indeterminate

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sentence of imprisonment, or a sentence authorized under section 18-65a or 18-73, imposed for some other offense by a court of this state, the service of the sentence of imprisonment shall satisfy the sentence of probation or of conditional discharge unless the sentence of probation or of conditional discharge is revoked prior to parole or satisfaction of the sentence of imprisonment.

Sec. 7. Section 53a-32 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(a) At any time during the period of probation or conditional discharge, the court or any judge thereof may issue a warrant for the arrest of a defendant for violation of any of the conditions of probation or conditional discharge, or may issue a notice to appear to answer to a charge of such violation, which notice shall be personally served upon the defendant. Any such warrant shall authorize all officers named therein to return the defendant to the custody of the court or to any suitable detention facility designated by the court. Whenever a defendant has, in the judgment of such defendant's probation officer, violated the conditions of such defendant's probation, the probation officer may, in lieu of having such defendant returned to court for proceedings in accordance with this section, place such defendant in the zero-tolerance drug supervision program established pursuant to section 53a-39d. Whenever a sexual offender, as defined in section 54-260, has violated the conditions of such person's probation by failing to notify such person's probation officer of any change of such person's residence address, as required by said section, such probation officer may notify any police officer that such person has, in such officer's judgment, violated the conditions of such person's probation and such notice shall be sufficient warrant for the police officer to arrest such person and return such person to the custody of the court or to any suitable detention facility designated by the court. Any probation officer may arrest any defendant on probation without a



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warrant or may deputize any other officer with power to arrest to do so by giving such other officer a written statement setting forth that the defendant has, in the judgment of the probation officer, violated the conditions of the defendant's probation. Such written statement, delivered with the defendant by the arresting officer to the official in charge of any correctional center or other place of detention, shall be sufficient warrant for the detention of the defendant. After making such an arrest, such probation officer shall present to the detaining authorities a similar statement of the circumstances of violation. Provisions regarding release on bail of persons charged with a crime shall be applicable to any defendant arrested under the provisions of this section. Upon such arrest and detention, the probation officer shall immediately so notify the court or any judge thereof.

(b) When the defendant is presented for arraignment on the charge of violation of any of the conditions of probation or conditional discharge, the court shall review any conditions previously imposed on the defendant and may order, as a condition of the pretrial release of the defendant, that the defendant comply with any or all of such conditions in addition to any conditions imposed pursuant to section 54-64a. Unless the court, pursuant to subsection (c) of section 54-64a, orders that the defendant remain under the supervision of a probation officer or other designated person or organization, the defendant shall be supervised by the Court Support Services Division of the Judicial Branch in accordance with subsection (a) of section 54-63b.

(c) [Thereupon,] Upon notification by the probation officer of the arrest of the defendant or upon an arrest by warrant as herein provided, the court shall cause the defendant to be brought before it without unnecessary delay for a hearing on the violation charges. At such hearing the defendant shall be informed of the manner in which such defendant is alleged to have violated the conditions of such defendant's probation or conditional discharge, shall be advised by the

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court that such defendant has the right to retain counsel and, if indigent, shall be entitled to the services of the public defender, and shall have the right to cross-examine witnesses and to present evidence in such defendant's own behalf. Unless good cause is shown, a charge of violation of any of the conditions of probation or conditional discharge shall be disposed of or scheduled for a hearing not later than one hundred twenty days after the defendant is arraigned on such charge.

[(b)] (d) If such violation is established, the court may: (1) Continue the sentence of probation or conditional discharge; (2) modify or enlarge the conditions of probation or conditional discharge; (3) extend the period of probation or conditional discharge, provided the original period with any extensions shall not exceed the periods authorized by section 53a-29; or (4) revoke the sentence of probation or conditional discharge. If such sentence is revoked, the court shall require the defendant to serve the sentence imposed or impose any lesser sentence. Any such lesser sentence may include a term of imprisonment, all or a portion of which may be suspended entirely or after a period set by the court, followed by a period of probation with such conditions as the court may establish. No such revocation shall be ordered, except upon consideration of the whole record and unless such violation is established by the introduction of reliable and probative evidence and by a preponderance of the evidence.

Approved May 27, 2008